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REMARKS

The following remarks are intended to be fully responsive to the Office Action mailed October 29, 2004.

Claims 1-5 and 16-19 are pending. Claims 6-15 are withdrawn from consideration. Claims 4 and 17 are rejected under 35 U.S.C. § 112. Claims 1-5 and 16-19 are rejected under 35 USC §102(b) as being anticipated by Hawelka et al. (4,830,421). Applicant has amended claims 1, 3, 4, 16, 17 and 19.

Information Disclosure Statement

The Examiner stated that the "listing of references in the specification is not a proper information disclosure statement." The references cited in paragraph 0029 of the specification are for background information only for four-bar linkages and do not pertain to the modular base for a pickup truck and the related method as claimed. Therefore, they were not included in the Information Disclosure Statement submitted because they are not relevant to the patentability of the claimed invention.

Claim Rejections Under 35 U.S.C. § 112

The Examiner rejected claims 4 and 17 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

More specifically, the Examiner rejected claim 4 for lacking sufficient antecedent basis for the limitation "a sidewall module" recited in the claim in line 3. In response, Applicant has amended claim 4 to provide sufficient antecedent basis.

The Examiner rejected claim 17 for lacking sufficient antecedent basis for the limitations "the rearward portion" recited in line 3, "at least one fastening element" in lines 3-4, and "a plurality of differently configured sidewall modules" recited in line 5 of

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the claim. In response, Applicant has amended claims 16 and 17 to provide sufficient antecedent basis.

Accordingly, the rejections under Section 112, second paragraph, for claims 4 and 17 are believed to be overcome. If Applicant's amendment of claims 4, 16, and 17 is insufficient, Applicant respectfully requests the Examiner to clarify the basis for the rejection.

Claim Rejections – 35 U.S.C. § 102(b)

Claims 1-5 and 16-19 are rejected under 35 USC §102(b) as being anticipated by Hawelka et al. (4,830,421).

For a rejection to be proper under 35 U.S.C. § 102, every element and limitation found in the rejected claim must be found in the § 102 reference. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). See MPEP §2131. Hawelka et al. do not disclose each of the elements and limitations found in claims 1-5 and 16-19.

Claim 1 has been amended to emphasize that the sidewall is part of a pickup truck, as originally stated in the preamble. More specifically, amended claim 1 recites a "pickup truck comprising: a cab; [and] a sidewall at least partially defining a pickup truck cargo box, the sidewall having a forward portion and a rearward portion with an elongated opening formed in the sidewall between the cab and the rearward portion. . . ."

The Examiner states that Hawelka et al discloses "a pickup truck (Figures 6-7) comprising: a cab 5; a sidewall having a forward portion and a rearward portion with an elongated opening (Figure 7) formed in the sidewall. . . ." However, it is apparent that Figures 6 and 7 of Hawelka depict a "fire service vehicle 1." See Hawelka et al, column

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8, line 21. Figure 1 more descriptively shows the “fire service vehicle 1” of Hawelka et al. It is clear that the “fire service vehicle” is not a “pickup truck” as recited in claim 1 and as understood by those skilled in the art.

Webster’s New Universal Unabridged Dictionary (1996) provides as a definition of “pickup”: “a small truck with a low-sided open body. . . .” The service vehicle 5 of Hawelka et al is clearly not “low-sided,” as recited by the definition of “pickup,” but rather has “sidewalls” that extend as high as the cab 5. Further, the service vehicle 5 of Hawelka et al does not have an “open body,” as recited by the definition of “pickup”: Figure 6 of Hawelka et al clearly shows a roof extending from one sidewall to the other and covering the tank 68. Accordingly, Hawelka et al does not disclose a “pickup truck” having “a sidewall at least partially defining a pickup truck cargo box,” as recited by amended claim 1.

Accordingly, Applicants submit that claim 1 is allowable. Claims 2-5 ultimately depend from claim 1 and are therefore allowable for at least the same reasons that claim 1 is allowable.

Moreover, claim 3 has been amended to recite “wherein said opening [formed in the sidewall] is uncovered and upwardly open.” (underlining added for emphasis). The openings in the vehicle of Hawelka et al are not “uncovered and upwardly open,” as recited by amended claim 3, but rather are upwardly closed by a portion of frame 38. See Figures 1 and 4 of Hawelka et al.

In Hawelka et al., the equipment modules can only be accessed from the side of the vehicle. Hawelka et al. does not teach the ease of loading modules, as well as cargo, from the top. Hawelka et al.’s top cover is inconsistent with the operation and known advantages of a pickup truck where the cargo portion is upwardly open for ease of insertion of modules from above as well as loading cargo. Furthermore, the size of the modules is limited in Hawelka by the size of the openings.

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Claim 16 recites "possessing a *pickup truck*, the pickup truck including a cab and a first sidewall ... and attaching a first sidewall module *to the pickup truck*. . . ." (emphasis added). As explained above with respect to claim 1, Hawelka et al does not disclose a "pickup truck." Accordingly, the rejection of claim 16 is improper. Claims 17 and 18 depend from claim 16 and are therefore allowable for at least the same reasons that claim 16 is allowable.

Claim 19 has been amended to recite that the opening is "uncovered and upwardly open." Accordingly, the analysis presented for claim 3 also applies to claim 19. Accordingly, Applicant submits that claim 19 is allowable.

CONCLUSION

This Amendment is believed to be fully responsive to the Office Action mailed October 29, 2004. The remarks in support of the amended claim and the rejected claims are believed to place all claims in the application in condition for allowance, which action is respectfully requested.

Respectfully submitted



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